

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 366 of 1997

in

SPECIAL CIVIL APPLICATION No 2025 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PERFECT TUBES & CAPILLARIES PVT LTD

Versus

AK TRIVEDI DEBT RECOVERY TRIBUNAL

Appearance:

MR SURESH M SHAH for Appellants

SERVED BY RPAD - (N) for Respondent No. 1

MR RM DESAI for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 20/02/98

ORAL JUDGEMENT

1. Learned counsel for the appellants seeks

permission to delete respondent No.1 as he is a Tribunal and that appellants do not claim any relief against the Tribunal. Permission granted.

2. Admitted. Mr. R.M. Desai appears and waives service of notice of admission on behalf of respondent No.2 (now sole respondent). In the facts and circumstances, the matter is taken up today for final hearing.

3. This appeal is filed against the order passed by the learned Single Judge summarily dismissing Special Civil Application No.2025 of 1997 on March 10, 1997. That petition was filed by the appellants-petitioners against the order passed by the Debt Recovery Tribunal under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as "the Act"). The order passed by the Tribunal is appealable under Section 20 of the Act. In L.P.A. No.470 of 1997 in Spl. C.A. No.8588 of 1996 dated 13.11.1997 (C.K. Thakkar and S.D. Pandit, JJ.), a Division Bench of this Court while interpreting various provisions of the Act held that any person aggrieved by an order passed by a Debt Recovery Tribunal can file an appeal under Section 20 of the Act unless the case is covered by sub-section (2).

4. Admittedly, the order does not fall under Section 20(2). The order which was passed by the Tribunal was, therefore, subject to appeal. No doubt, the learned Single Judge has dismissed the petition. But in the facts and circumstances of the case, Mr. Shah seeks permission to withdraw this Letters Patent Appeal as also Special Civil Application as equally efficacious and statutory remedy is available to the appellants against the order passed by the Tribunal.

5. In our opinion, the request is reasonable and can be granted. Prayer is, accordingly, granted. Appellants are permitted to withdraw this appeal as well as Special Civil Application No.2025 of 1997 and it is open to the appellants, if they so desire, to file appeal under Section 20 of the Act. If such an appeal is filed within one month from today, the Appellate Authority will entertain the same and will not raise an objection limitation. The Appellate Authority will decide the appeal on its own merits without being influenced by the observations made by us in this Letters Patent Appeal or by the learned Single Judge in Special Civil Application No.2025 of 1997. Appeal is, accordingly, partly allowed to the extent as indicated above. In facts and circumstances of the case, there will be no order as to

costs.

(C.K. THAKKAR, J.)

(A.L. DAVE, J.)

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